

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:
NICOLE PATTERSON, <i>individually and on behalf of all</i>	:
<i>others similarly situated,</i>	:
	:
Plaintiff,	:
	:
	:
-v-	:
	:
WILDLIFE CONSERVATION SOCIETY,	:
	:
Defendant.	:
	:
-----X	

24-CV-171 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

For reasons the Court will explain orally at the conference referenced below, Defendant's motion to dismiss is DENIED, except insofar as it seeks to dismiss Plaintiff's claim for injunctive relief, which portion is GRANTED on consent. *See* ECF No. 12, at 7-8; ECF No. 19, at 4 n.2.

As the Court will explain more fully at the conference, Defendant's arguments regarding the exceptions to CAFA jurisdiction are not necessarily without force, but they fall short because Defendant bears the burden of proving their applicability and failed to offer any relevant evidence at all until its reply and, even then, failed to satisfy the burden. That said, mindful that arguments as to subject-matter jurisdiction are not waivable, counsel should be prepared to discuss at the conference whether, when, and how Defendant should be permitted to make more fulsome arguments with respect to jurisdiction under CAFA and, if applicable, whether some form of jurisdictional discovery is appropriate.

Defendant shall answer the Complaint **within fourteen days** in accordance with Rule 12(a)(4)(A) of the Federal Rules of Civil Procedure. In addition, the parties shall appear for a telephonic initial pretrial conference on **June 14, 2024, at 10:00 a.m.** In accordance with the previously issued Notice of Initial Pretrial Conference, *see* ECF No. 5, the parties shall file a joint letter and proposed Case Management Plan by the **Thursday before the initial pretrial conference.**


To access the conference, counsel should call 888-363-4749 and use access code 5421540#. Members of the press and public may call the same number but will not be permitted to speak during the conference. The parties are reminded to follow the procedures for teleconferences described in the Court's Individual Rules and Practices for Civil Cases, which are available at <https://nysd.uscourts.gov/hon-jesse-m-furman>. In accordance with those Rules, counsel shall, at least **twenty-four hours before the conference**, email to the Court the names,

honorifics (e.g., Mr., Mrs., Ms., Dr., etc.), and telephone numbers of those who will participate in the conference.

The Clerk of Court is directed to terminate ECF Nos. 11 & 12.

SO ORDERED.

Dated: May 22, 2024  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge